

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DARREN ROY MACK,
 Petitioner,

vs.

RENEE BAKER, *et al.*,
 Respondents.

3:12-cv-00104-RCJ-VPC

ORDER

On October 20, 2014, this court entered an order directing Mack to either abandon an unexhausted claim (Ground Three) from his habeas petition or suffer dismissal of the petition pursuant to *Rose v. Lundy*, 455 U.S. 509 (1982). ECF No. 61. The order allowed 20 days for Mack to file a notice of abandonment indicating that Ground Three is to be deleted from his petition. That time period elapsed without a response from Mack. Accordingly, the respondents filed, on November 19, 2014, a motion to dismiss the petition. ECF No. 63. Mack has not responded to that motion.

IT IS THEREFORE ORDERED that respondents' motion to dismiss this habeas proceeding (ECF No. 63) is **GRANTED**. This action is **DISMISSED** without prejudice for failure to exhaust state remedies pursuant to the total exhaustion rule of *Rose v. Lundy*, 455 U.S. 509, 522 (1982). The Clerk shall enter judgment accordingly.

1 **IT IS FURTHER ORDERED** that respondents' motion to strike (ECF No. 66) the motion
2 for canvass (ECF No. 65) filed by Richard Cornell and William Routsis is **GRANTED** due to
3 Cornell and Routsis's lack of standing to file such a motion. The Clerk is ordered to strike the
4 fugitive document from the record..

5 **IT IS FURTHER ORDERED** that a certificate of appealability is DENIED.

6 Dated this 12th day of March, 2015.

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10 UNITED STATES DISTRICT JUDGE
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